

### **REMARKS**

In the above noted Office Action claims 1, 11-19, 39-46 and 49 were rejected under 35 USC §102(b) as being anticipated by Koike US Pub. No. US2003/0006889 A1. The remaining pending claims 10, 26 and 32 were rejected under 35 USC §103(a) as being unpatentable over Koike in combination with Ochi et al USPN 5913,910 (hereinafter Ochi). With this submission independent claims 1, 39, 45 and 49 are amended.

### **REJECTIONS UNDER 35 USC §102(b)**

The law is clear that anticipation requires that a single prior art reference disclose each and every limitation of the claim sought to be rejected. The law is also clear that a claim in dependent form can be construed to incorporate all the limitations of the claim to which it refers. Applicant respectfully requests the withdrawal of the 35 U.S.C. §102 rejection of claims 1, 11-19, 39-46 and 49 for the reasons set forth below.

Applicants invention as defined by amended independent claims 1, 39, 45 and 49 requires a determination (from data provided by a sensor on the first vehicle) that a probability of collision between first and second vehicles be greater than a threshold value before there is an exchange of vehicle condition-defining signals between the two vehicles (or as in the case in claim 39, before there is a transmission of vehicle condition-defining signal to the second vehicle). The reference Koike (Fig 4A and 4B, S13; Fig. 8, S34, S35, S36, S37, S38; Fig. 10, S51, S52; Fig. 16, S112, S114, S116, S118, S120, S122; Fig. 23, S164, S166, S168, S170, S174; Fig.26, S203, S204, S205, S206) provides for a determination that a probability of collision between first and second vehicles be greater than a threshold value after an exchange of vehicle condition- defining signals.

Applicants' collision severity prediction system minimizes or lowers the need for signal exchange between given vehicles and thus enhances overall system reliability and lowers the potential for false alarms. Applicants' collision prediction system only communicates vehicle condition-defining signals after a determination that a possibility of collision with another vehicle is greater than a threshold value, therefore there is less signal noise which could possibly interfere with signal exchanges of other vehicles which maybe entering an imminent crash situation.

Accordingly Applicants respectfully request withdraw of the 35 USC §102(b) rejections to the independent claims and to their dependent claims rejected under 35 USC §102(b).

**REJECTIONS UNDER 35 USC §103(a)**

Claim 10 has been rejected under 35 USC §103(a) based upon a combination of Koike and Ochi. Ochi provides information regarding a driver's skill level. Ochi requires the use of a target along a roadway, or line on the roadway, or a target stored in a memory. Ochi additionally requires a camera or other motion recording device to analyze a deviation in an expected path of the vehicle to determine a driver's skill. However driver skill and driver state are not the same attribute. There is no teaching or suggestion in Ochi or Koike which can detect sudden changes in "driver state" such as a lowering of alertness or attentiveness due to a distraction of changing a radio station or using a phone or a driver's gaze. Additionally to determine driver state as provided in Applicant's invention there is no requirement for the use or targets or lines on the roadway as required by Ochi. Accordingly Applicants' invention as defined in claim 10 is not made obvious by the proposed combination of Koike and Ochi. Removal of the rejection under 35 USC §103(a) is respectfully requested

Claims 26 and 32 have been rejected under 35 USC §103(a) based upon a combination of Koike and Ochi. Ochi does command changes in a brake controller, ignition timing, and or a transmission. However none of the aforementioned Ochi devices are occupant protection devices as provided in Applicants' invention. Ochi discloses a modification in operational characteristics of items normally controlled by the driver (brakes, transmission ratio, ignition timing). Applicants' invention as defined in claims 26 and 32 modifies and or arms occupant protection devices such as seat belts, airbags, extendible/retractable bumpers and knee bolsters. The occupant protection devices of Applicants' invention are items normally not controlled by the driver (with the initial snap in of the seat belt being an exception). According Applicants' invention as defined in claims 26 and 32 is not made obvious by the proposed combination of Koike and Ochi and withdraw of the rejection under 35 USC §103(a) is respectfully requested.

**CONCLUSION**

Applicants respectfully submit that in view of the above amendments and remarks, claims 1, 10-19, 26, 32, 39-46 and 49 as amended, are patentably distinguishable over the cited patents, whether taken alone or in combination, and that the cited art does not anticipate disclose, teach, suggest or render obvious, Applicants' invention. Therefore, Applicants submit that the pending claims are properly allowable, and a Notice of Allowance is respectfully requested. If the Examiner does not find that the current submission places the Application in condition for Allowance, the Applicant respectfully request the amendments to the claims be admitted for purposes of Appeal.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 689-3500 if any unresolved matters remain.

Respectfully submitted,

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